

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF ACCOUNTANCY

In the Matter of
William Bradley Coutts, C.P.A.,
Certificate to Practice No. 04897

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

The above-entitled matter came on for a prehearing conference before Administrative Law Judge Barbara L. Neilson at 10:45 a.m. on November 22, 2004, at the Office of Administrative Hearings in Minneapolis, Minnesota. Gregory P. Huwe, Assistant Attorney General, 445 Minnesota Street, Suite 1800, St. Paul, Minnesota 55101-2134, appeared on behalf of the Board of Accountancy ("the Board"). There was no appearance by or on behalf of the Respondent, William Bradley Coutts, CPA, 11 South Fourth Street, Grand Forks, ND 58201. The record in this matter closed at the conclusion of the prehearing conference on November 22, 2004.

NOTICE

This Report is a recommendation, not a final decision. The Board will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Dennis J. Poppenhagen, Executive Secretary, Board of Accountancy, Suite 125, 85 East Seventh Place, St. Paul, Minnesota 55101 (telephone no. (651) 296-7937), to ascertain the procedure for filing exceptions or presenting argument.

If the Board fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes.

STATEMENT OF ISSUE

The issues in this contested case proceeding are whether or not Respondent failed to report completion of required Continuing Professional Education credits to the Board in violation of Minn. Stat. § 326A.04, subd. 2, and Minn. R. 1105.2500 B and 1105.3000; failed to renew his CPA certificate in violation of Minn. Stat. § 326A.04; failed to appear at a conference with the Complaint Committee, respond to Board communications, or cooperate with a Board investigation, in violation of Minn. R. 1105.1200 and 1105.1300; violated a statute or rule the Board is empowered to enforce, in violation of Minn. Stat. § 326A.08, subd. 5(a)(1), or failed to meet any requirement for the issuance or renewal of practice privileges or a certificate, registration, or permit, in violation of Minn. Stat. § 326A.08, subd. 5(a)(8); and, if so, whether disciplinary action should be taken against the Respondent as authorized by Minn. Stat. §§ 214.10 and 326A.08.^[1]

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Board of Accountancy issued the Respondent, William Bradley Coutts, a CPA certificate on July 23, 1979.

2. The Amended Notice and Order for Hearing and Prehearing Conference in this matter was served upon the Respondent by certified and/or first class mail on October 14, 2004, at 11 S Fourth Street, Grand Forks ND 58201.^[2]

3. The Amended Notice and Order for Hearing and Prehearing Conference mailed to the Respondent included the following notice:

Respondent's failure to appear at the prehearing conference or the hearing may result in a finding that the Respondent is in default, that the Board's allegations contained in this Notice and Order may be accepted as true, and its proposed action may be upheld.^[3]

4. The Respondent did not file any Notice of Appearance with the Administrative Law Judge or make any request for a continuance or any other relief.

5. The Respondent did not appear at the prehearing conference scheduled for November 22, 2004, or have an appearance made on his behalf. The Respondent also did not contact the Administrative Law Judge between November 22, 2004, and the date on which this Report was issued to provide an excuse for his failure to appear.

6. Because the Respondent failed to appear at the prehearing conference in this matter, he is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice and Order for Hearing and Prehearing Conference are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Board and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 214.10, and 326A.08.
2. The Board has given proper notice of the prehearing conference in this matter and has fulfilled all relevant substantive and procedural requirements of law or rule.
3. The conduct described in the Notice and Order for Hearing and Prehearing Conference constitutes a violation of Minn. Stat. §§ 326A.04 and 326A.08, subd. 5(a)(1) and (8), and Minn. R. 1105.1200, 1105.1300, 1105.2500 B, and 1105.3000. As a result, the Respondent is subject to disciplinary action under Minn. Stat. §§ 214.10 and 326A.08.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that disciplinary action be taken against the Respondent, Richard L. Berg.

Dated: November 29, 2004

/s/ Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Default.

^[1] In the Notice of Hearing, the Board also alleged violations of Minn. R. 1100.0600 and 1100.2200. These rule provisions have been repealed and thus are not referenced in this report.

^[2] Affidavit of Service by U.S. Mail of C.O. Ransom attached to Notice and Order for Hearing and Prehearing Conference.

^[3] Notice and Order for Hearing and Prehearing Conference, Additional Notice ¶ 1.